

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAWRENCE LYNELL SIMMONS,

Plaintiff,

v.

KAREN SUE SIMMONS,

Defendant.

Case No. 1:19-cv-302

HON. JANET T. NEFF

OPINION AND ORDER

Plaintiff initiated this action against his wife/former wife, as the third of three cases he pursued in this Court related to the couple's divorce (Compl., ECF No. 1). The Magistrate Judge conducted an initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2), and issued a Report and Recommendation, recommending that the action be dismissed for lack of subject matter jurisdiction (ECF No. 8 at PageID.25). The Magistrate Judge stated: "Unlike state courts, which are courts of general jurisdiction, the federal courts are courts of limited jurisdiction. A significant limitation upon the jurisdiction of the federal district courts is that such courts are precluded from reviewing judgments of the state courts" (*id.* at PageID.24). Here, Plaintiff alleges that Defendant secured a Personal Protective Order (PPO) against him through false and injurious statements (*id.*). "This Court, however, lacks the authority and jurisdiction to hear Plaintiff's 'appeal' of the decision by a state court to issue the PPO in question" (*id.*, citing authority).

The matter is presently before the Court on Defendant's Objection to the Report and Recommendation (ECF No. 10). Defendant presents no discernable valid objection to the Report and Recommendation. Defendant acknowledges that the complaint is subject to initial review

under § 1915(e)(2) based on Plaintiff's *in forma pauperis* status (ECF No. 10 at PageID.28-29). He argues, however, that the Report and Recommendation is premature, and improper where he has not consented to referral of this matter to the Magistrate Judge (*id.* at PageID.29-30). However, the Magistrate Judge's issuance of a Report and Recommendation is in accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), and the Magistrate Judge correctly determined that this Court lacks subject matter jurisdiction over Plaintiff's claims of slander and libel "created during" the state court's personal protection proceeding (*see* ECF No. 10 at PageID.31)

Therefore, the Court denies the objection and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

For the above reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3), as recommended by the Magistrate Judge, that an appeal of this Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Accordingly:

IT IS HEREBY ORDERED that the Objection (ECF No. 10) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 8) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (ECF No. 1) is DISMISSED for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: July 22, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge